

#6015

BEFORE THE ALCOHOLIC BEVERAGE CONTROL BOARD
OF THE DISTRICT OF COLUMBIA

In the Matter of:

CARIB FOOD CORPORATION
t/a Silver Sands Restaurant
& Lounge
7303 Georgia Avenue, N.W.
Washington, D.C. 20012

ALC-
App: No. 6015-97026P

Class CR

VOLUNTARY AGREEMENT

This Voluntary Agreement (the "Agreement") is entered into and made this 14th day of February, 1998, by and between CARIB FOOD CORPORATION ("Applicant"), a D.C. Corporation, and Alpha McPherson, both individually and as President of GFEDDS NEIGHBORHOOD ASSOCIATION, INC. ("GFEDDS"), a D.C. Corporation, Dorothea Dargan, Hattie Ervin, Tom Ervin, Evelyn McReynolds, Eugene Owens, and Paulette Owens (each a "Protestant," and collectively the "Protestants").

WITNESSETH, as follows:

WHEREAS, pending before the District of Columbia Alcoholic Beverage Control Board (the "Board") is Applicant's application for a Retailer's Class CR beverage license for the premises at 7303 Georgia Avenue, N.W., Washington, D.C. 20012 (the "Premises"), Application Number 6015-97026 (the "Application");

WHEREAS, each Protestant filed a 14(e) or 14(b) petition on or before March 4, 1997, objecting to the Application;

WHEREAS, the parties desire to enter into an agreement, enforceable by the Board, regarding how Applicant shall operate the business at 7303 Georgia Avenue, N.W., once called the "Silver Sands Restaurant and Lounge," or any other similar business at that address, by any name, owned or operated by Applicant, by Dr. Wesley Gordon, or by any company established by Applicant or Dr. Wesley Gordon, (the "Silver Sands," the "Establishment," the "Business," or the "Restaurant"); and

WHEREAS, in consideration of, and in reliance upon, the commitments reflected in this Agreement, the Protestants shall withdraw their protests under Sections 14(e) and 14(b) of the ABC Act, heretofore filed herein, upon the acceptance of the Board of this Agreement and all conditions therein and upon the immediate implementation of this Agreement by Applicant.

NOW, THEREFORE, in consideration of the premises above recited, and the covenants and promises set forth below, the parties hereto agree as follows:

1. Applicant shall operate only a restaurant on the Premises. The Restaurant shall feature Caribbean and American cuisine, substantially as set forth in the menu attached hereto as Exhibit 1, and shall welcome families, among others, as patrons.

2. Applicant shall change, officially and otherwise, the trade name of the Business at 7303 Georgia Avenue, N.W., from "Silver Sands Restaurant and Lounge" to "Silver Sands Restaurant." Applicant shall not change the name of the Business in any other way. Applicant shall take all measures necessary to effectuate this change in every aspect of the Business, including, without limitation, filing with the government of the District of Columbia for a qualification to do business under the new name (or similar authorization), amending its ABC license application to reflect the new name, and modifying or replacing all signs and other promotional materials to reflect the new name.

3. The hours of operation of the Restaurant shall not exceed 11:00 a.m. to 11:00 p.m., Monday through Saturday. All staff and patrons shall be cautioned of the importance of ensuring that the community around the Premises is not disturbed by, inter alia, clean-up during or after the hours of business.

4. The Silver Sands shall be a restaurant only, not a night club or lounge, as those terms are commonly understood. Accordingly, just as Applicant has represented in the Application, there shall be no live entertainment at the Restaurant. There shall be no dancing at the Restaurant. There shall be no live music at the Restaurant. If any non-live music is played at the Restaurant, such as music played on radio, compact disc, or cassette tape, it shall not be played louder than conversational volume.

5. Applicant shall amend the Application from one seeking a Retailer's Class CR license to one seeking a Retailer's Class DR license. If this change cannot be accomplished by filing a petition therefor, then Applicant shall withdraw the Application and file a new application for a Class DR license (the "DR Application"). If withdrawing the Application and filing the DR Application is necessary, in consideration for such withdrawal and refile, and for the other undertakings set out herein, neither GFEDDS nor any Protestant shall file an objection to the DR Application, so long as the Board approves this Agreement and Applicant complies with the requirements of this Agreement.

6. In accordance with Applicant's Class DR license, the Restaurant shall serve only beer and light wines and shall not serve any spirituous beverages (i.e., hard liquor) whatsoever. Any alcoholic beverages served at the Restaurant, in accordance with any ABC license secured in accordance herewith, shall be served only to patrons who are dining there. No one shall be served any alcoholic beverage at the Restaurant without a food purchase.

7. In order to prevent an increase in parking congestion in the community as a result of the Restaurant, Applicant shall provide off-street parking for its patrons totaling fifteen (15) spaces. As an initial step toward that goal, Applicant has secured, as of the date of this Agreement, an unwritten agreement with the management of Mayfair Liquors, whereby four (4) or nine (9) parking spaces will be available to patrons of the Silver Sands, depending on the time of day. Within six (6) months of the date of this Agreement, Applicant shall execute one or more written agreements with Mayfair Liquors and/or other establishments in the vicinity of the Silver Sands to make available a total of fifteen (15) parking spaces for its patrons. The parties agree that those written agreements, upon their execution, shall be incorporated by reference herein.

8. In order to ensure that patrons of the Restaurant will use the parking spaces set forth in ¶ 7, Applicant shall post at least two large signs, one in front of the Establishment and one inside the Establishment, that are clearly visible to the public and that announce the availability and location of the parking spaces described in ¶ 7.

9. Applicant shall install lighting on the front exterior of the Premises sufficient to illuminate the sidewalk between the facade of the Premises and the curb. Those lights shall be turned on every night the Business is open from dusk until closing time (11 pm). Applicant shall install on the rear exterior of the Premises adequate additional lighting that is turned on and off by a motion-detecting switch. The motion-detecting switch shall be enabled every night the Business is open from dusk until closing time (11 pm). The lighting described in this ¶ 9 shall be maintained and kept in working order.

10. Applicant shall not install, or encourage the installation of, a public telephone, either affixed to the exterior of the Premises or outside of the Premises on Applicant's property, in order to ensure that unsavory individuals are not attracted to the Premises.

11. Applicant shall post a large sign clearly visible to patrons indicating that no under-age person will be served alcoholic beverages in the Restaurant, and that anyone suspected of being under-age will be required to provide positive identification before they will be served alcohol.

12. At all times during which alcohol is served on the Premises, one of Applicant's employees shall be stationed near the door of the Premises and shall have the following job duties:

a. To refuse entry, to the extent allowed by law, to individuals who are already drunk, who bring their own alcohol to the Premises, or who are otherwise undesirable;

b. To ask inebriated patrons who have become rowdy to leave the Premises, to eject such patrons to the extent allowed by law, and to call the police if such patrons still refuse to leave.

c. To assure that wait staff check the identification of patrons suspected of being under-age before serving them; and

d. To assure that wait staff stop serving patrons who have become inebriated.

The employee charged with these responsibilities may perform other job functions as well.

13. It is of utmost concern to the Protestants that the shareholders, directors and officers of Applicant (which owns and manages the Restaurant and holds its ABC license) be individually responsible and accountable to the community for the operation of the Restaurant and the events that occur therein. The level of responsibility and accountability expected by the Protestants requires said shareholders, directors, and officers of Applicant to exercise direct control over the operations of the Business. For purposes of this Agreement, "direct control" means, at a minimum, that said shareholders, directors, and officers shall be physically present with great frequency on the Premises. To fulfill Applicant's responsibilities set out in this ¶ 13, Applicant hereby represents and warrants as follows:

a. As of the date hereof, each of Dr. Wesley Gordon, Barbara Gordon, David Greaves, and Eric Lewis is either a shareholder, director or an officer of Applicant, and one of said persons listed in this subparagraph a. shall be on the Premises at all times when the Restaurant is open for business. Should any of the persons listed in this subparagraph a. cease to be shareholders, directors, or officers of Applicant, Applicant shall designate other individuals through written amendment to this Agreement and shall see that such newly designated shareholders, directors, or officers fulfill the obligations of this subparagraph a.

b. In addition to and distinct from his obligations under the provisions of ¶ 13.a., Dr. Wesley Gordon shall be on the Premises customarily and regularly. For purposes of this ¶ 13, Dr. Wesley Gordon shall satisfy the "customarily and regularly" requirement if he is on the Premises according to the following schedule or its substantial equivalent:

- (1) almost every day the Business is open for at least some significant period of time;
- (2) almost all Wednesdays, during all hours of operation;
- (3) almost all Fridays, during evening hours of operation; and
- (4) almost all Saturdays, during afternoon and evening hours of operation.

c. Occasional variation by Dr. Wesley Gordon from the schedule set forth in ¶ 13.b. (or the substantial equivalent of that schedule), such as for reasonable vacations, shall not constitute a violation of his obligations under ¶ 13.b.

14. In order to improve communication and integration of the Business with the community, to enhance the accountability of Applicant, and to facilitate the remediation of problems at the Restaurant at the earliest possible stage, Dr. Wesley Gordon shall personally attend, upon request, any regularly scheduled meeting of the Advisory Neighborhood Commission ("ANC") 4B-01.

15. The Premises at 7303 Georgia Avenue, N.W. consists of two above-ground floors and a basement. Restaurant services shall be provided primarily on the first floor. Restaurant services may expand to the second floor, as business needs require. Besides restaurant services, the second floor shall be used only for meetings of community groups, birthday and anniversary lunches and dinners, or other private lunches and dinners. The basement shall be used only for storage. All terms and conditions of this Agreement apply to all rooms and floors of the Premises.

16. If the Board finds that Applicant has violated any of the terms of this Agreement or of any ABC license(s) secured in accordance herewith, Applicant agrees that it shall surrender any ABC license(s) that Applicant has to the Board for cancellation.

17. If the Board finds that the Business has an adverse impact on the neighborhood at any point subsequent to the issuance of a Class DR license to Applicant, Applicant agrees that it shall surrender any ABC license(s) that Applicant has to the Board for cancellation. It is agreed by the parties

hereto that "adverse impact" is defined as a bona-fide, valid adverse effect.

18. a. If a Protestant believes that Applicant has violated the terms of this Agreement or of any ABC license(s) secured in accordance herewith (as per ¶ 16), or that the Business is having an adverse impact on the neighborhood (as per ¶ 17), the Protestant shall not seek a determination by the Board that such violation or adverse impact exists unless:

(1) the Protestant sends a signed Notice (as defined infra, ¶ 21) to Applicant (and sends a copy to the Board) that states with specificity the facts constituting the grounds for the Protestant's belief; and

(2) any one of the deadlines associated with the mediation process outlined in ¶ 18.b. is not met.

b. Applicant shall be deemed to have admitted to the violation or adverse impact specified in the Protestant's Notice unless:

(1) within fourteen (14) days of Applicant's receipt of the Protestant's Notice, Applicant sends the Protestant and the Board a Notice acknowledging receipt of the Protestant's Notice and proposing a date for the Protestant and Dr. Wesley Gordon to meet in person and discuss the possible violation or adverse impact, which date shall be within fourteen (14) days of the date of Applicant's Notice;

(2) within thirty (30) days of Applicant's Notice, the Protestant and Dr. Wesley Gordon actually meet in person and discuss the possible violation or adverse impact; and

(3) within thirty (30) days of the meeting between the Protestant and Dr. Wesley Gordon, the Protestant and Applicant send the Board Notice, signed by both parties, stating that the Protestant is satisfied that:

(a) there is no violation or adverse impact;

(b) any violation or adverse impact has been remedied and will not recur; or

(c) any violation or adverse impact will be remedied (within a specified period of time that is satisfactory to the Protestant) and will not recur.

19. The parties hereto further agree that any failure of Applicant to adhere to the terms of this Agreement shall constitute grounds for a Protestant to petition the Board for issuance of an order to show cause pursuant to the Rules of the Board, 23A DCMR § 1513.5 (1988). The Protestants do not waive any legal means of redress that may also be available under this Agreement or other agreements.

20. a. Within eighteen (18) months after the date of issuance of a Class DR license to Applicant, all Protestants who are then still local residents shall gather to reconsider their opposition to Applicant's obtaining a Class CR license.

(1) If Applicant has not violated any of the terms of this Agreement or of the DR license and has not otherwise caused an "adverse impact" on the neighborhood (as defined supra, ¶ 17), then Protestants shall conclude that they no longer oppose Applicant's obtaining a Class CR license, shall provide Notice to Applicant to that effect, and shall not object to any new application by Applicant for a Class CR license.

(2) If Applicant has violated one or more of the terms of this Agreement or of the DR license or has otherwise caused an "adverse impact" on the neighborhood, then Protestants shall conclude that they continue to oppose Applicant's obtaining a Class CR license, shall provide Notice to Applicant to that effect, and shall specify therein the reason or reasons for their continued opposition.

b. Protestants shall send Notice of their conclusion to Applicant on or before the date eighteen (18) months after the date of issuance of a Class DR license to Applicant.

c. If Protestants provide Notice, that, in accordance with ¶ 20.a.(1), they continue to oppose Applicant's obtaining a Class CR license, then Applicant shall not file an application for a Class CR license.

d. If Protestants provide Notice, that, in accordance with ¶ 20.a.(2), they no longer oppose Applicant's obtaining a Class CR license, then Applicant may file an application for a Class CR license, but only if Applicant attaches to its application Protestants' Notice indicating approval.

e. If Protestants fail to send Notice of their conclusion in a timely manner, in accordance with ¶ 20.b., then Applicant may file an application for a Class CR license, but only if Applicant attaches to its application a written certification to the Board that Protestants failed to send Notice in a timely manner in accordance with ¶ 20.b.

f. Regardless of the number of Protestants still residing in the local area, Applicant shall be entitled to treat a Notice citing to this ¶ 20 as a definitive conclusion reached by all Protestants regarding their reconsideration; provided, that GFEDDS has executed said Notice.

21. a. For all provisions of this Agreement, "Notice" shall mean a letter, sent by certified mail, return receipt requested, to the parties as indicated in ¶ 21.b.

b. (1) If to Applicant, a single Notice is sufficient, if addressed to:

Curtis A. Ward, Esq.
Curtis A. Ward & Associates
The World Building
8121 Georgia Avenue, Suite 700
Silver Spring, MD 20910

(2) If to GFEDDS and/or any Protestant, a single Notice is sufficient, if addressed to:

Alpha McPherson
President, GFEDDS
7125 Georgia Avenue, N.W.
Washington, DC 20012

22. The term of this Agreement shall be the entire period during which Applicant, Dr. Wesley Gordon, or any company established by Applicant or Dr. Wesley Gordon, holds any ABC license for any business at the Premises.

23. The terms of this Agreement may be modified only by mutual written consent of Applicant and the Protestants, both individually and in their official capacities. Any other alteration of any term of this Agreement by any party or entity shall be grounds for withdrawal of approval of this Agreement by the Protestants, both individually and in their official capacities.

24. This Agreement shall not be construed to prohibit the Protestants, in either their individual or official capacities, from availing themselves of any other rights or remedies they may have, under law, regulation, or separate contract, in the event of any alteration of the Premises or Business.

IN WITNESS WHEREOF, the parties hereto affixed their names and seals on the year and day first hereinabove written.

CARIB FOOD CORPORATION

By: Wesley N. Gordon
Dr. Wesley Gordon
President

GFEDDS

By: Alpha O. McPherson
Alpha McPherson
President

Alpha O. McPherson Dorothea Dargan
Alpha McPherson Dorothea Dargan

Tom Ervin Hattie Ervin
Tom Ervin Hattie Ervin

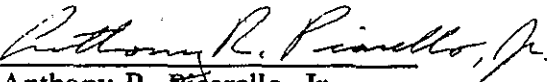
Evelyn J. McReynolds Eugene J. Owens
Evelyn McReynolds Eugene Owens

Paulette J. Owens
Paulette Owens

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of February, 1998, I caused a copy
of the foregoing Voluntary Agreement to be served by first class mail on:

Curtis A. Ward, Esq.
Curtis A. Ward & Associates
The World Building
8121 Georgia Avenue, Suite 700
Silver Spring, MD 20910


Anthony R. Picarello, Jr.
Anthony R. Picarello, Jr.

2000-8-31-00

GFEDDS NEIGHBORHOOD
ASSOCIATION INC
7125 Georgia Ave., NW
Washington, D.C. 20012

6015

2000 AUG 31 AM 9:01

August 11, 2000

INTERIM OFF-STREET PARKING AGREEMENT

Reference: (a) Voluntary Agreement entered into and made on
11 February 1998, by and between CARIB FOOD
CORPORATION and Alpha McPherson, both
individually and as President of GFEDDS
NEIGHBORHOOD ASSOCIATION, INC. ("GFEDDS").

This Interim Off-Street Parking Agreement is entered
into and made this 18th day of August, 2000 by and
between CARIB FOOD CORPORATION ("Applicant"), a D.C.
Corporation, and Alpha McPherson, both individually and as
President of GFEDDS NEIGHBORHOOD ASSOCIATION, INC.
("GFEDDS"), a D.C. Corporation, Dorothea Dargan, Hattie
Ervin, Tom Ervin, Evelyn McReynolds, Eugene Owens, and
Paulette Owens (each a "Protestant," and collectively the
"Protestants").

WITNESSETH, as follows:

WHEREAS, pending before the District of Columbia
Alcoholic Beverage Control Board (the "Board") is
Applicant's application for a Retailer's Class CR beverage
license for the premises at 7303 Georgia Avenue, N.W.,
Washington, D.C. 20012 (the "Premises"), Application Number
6015-97026 (the "Application");

WHEREAS, five Protestants filed a 14(e) or 14(b)
petition on or before June 20, 2000 objecting to the
Application;

WHEREAS, the parties desire to enter into an
agreement, enforceable by the Board, regarding how
Applicant shall provide off-street parking for patrons of
7303 Georgia Avenue, N.W., now known as the "Silver Sands
Restaurant and Lounge," or any other similar business at
that address, by any name, owned or operated by Applicant,
by Dr. Wesley Gordon, or by any company established by

WHEREAS, in consideration of, and in reliance upon,
the commitments reflected in this Interim Off-Street
Parking Agreement, the Protestants shall only withdraw the
portion of their protests, which specifically addresses off
street parking under Sections 14(e) and 14(b) of the ABC
Act, heretofore filed herein, upon the acceptance of the
Board of this Interim Off-Street Parking Agreement and all
conditions therein and upon the immediate implementation of
this Agreement by Applicant.

NOW, THEREFORE, in consideration of the premises above
recited, and the covenants and promises set forth below,
the parties hereto agree as follows:

1. In order to prevent an increase in parking congestion
in the community as a result of the Restaurant, Applicant
shall provide off-street parking for its patrons totaling
nine spaces. GFEDDS accept the written parking
arrangements between Carib Food Corp. and Mayfair Liquors
located at 7312 Georgia Ave., N.W. as an interim agreement
for off-street parking between Carib Food Corp. and GFEDDS.
The interim agreements must provide a minimum of nine
parking spaces for Silver Sands Restaurant's patrons from
8p-11p Monday-Saturday. GFEDDS accept this arrangement for
one year. After one year the terms of ¶ 7 and ¶ 8 of
reference (a) will be restored and invoked. This Interim
Off-Street Parking Agreement is effective on the date it is
signed by the last signatory.

2. In order to ensure that patrons of the Restaurant will
use the parking spaces set forth in ¶ 1, Applicant shall
post at least two large signs, one in front of the
Establishment and one inside the Establishment, that are
clearly visible to the public and that announce the
availability and location of the parking spaces described
in ¶ 1.

3. Additionally, if during the period of this interim off-
street parking agreement residents in the community
complain about parking problems i.e., congestion, illegal
parking, and unauthorized parking in private driveways
caused by Silver Sands patrons, GFEDDS will meet with Carib
Food Corp. President, Dr. Wesley Gordon, to do fact finding
and evaluate the complaint(s) and if warranted will
immediately invoke the terms of reference (a), thus

nullifying and voiding this Interim Off-Street Parking Agreement.

4. This Interim Off-street Parking Agreement is acceptable to the community to allow Carib Food Corp. to use in lieu of conditions outlined in reference (a) ¶ 7 and ¶ 8. This Interim Off-street Parking Agreement expires one year from date Interim Off-street Parking Agreement was signed or at anytime when it's determined Carib Food Corp. is not in full compliance. The procedures outlined in ¶ 18 of reference (a) will be used to validate non-compliance or violation of this interim off-street parking agreement.

5. As time evolves and as business improves, The Voluntary Agreement (reference (a)) will prove to be a valuable instrument for improving the relationship of Silver Sands Restaurant with its neighbors. By working together within the realm of The Voluntary Agreement and using sound and proven best business practices the goals and objectives of Silver Sands becoming a positive force in the community will be achieved.

IN WITNESS WHEREOF, the parties hereto affixed their names and seals on the year and day first hereinabove written.

CARIB FOOD CORPORATION

By: Wesley N. Gordon 8/18/00
Dr. Wesley Gordon Date
President

GFEDDS

By: Alpha O. McPherson 8/18/00
Alpha McPherson Date
President

Alpha O. McPherson Dorothea H. Dargan 8/18/00
Alpha O. McPherson Date Dorothea H. Dargan Date

Paulette Owens 8/14/00
Paulette Owens Date

Eugene Owens 8/14/00
Eugene Owens Date

Evelyn McReynolds Date

Tom Ervin 08/13/00
Tom Ervin Date

Hattie Ervin 08/13/00
Hattie Ervin Date

Copy to
Chairman, ABC Control Board

**BEFORE
THE DISTRICT OF COLUMBIA
ALCOHOLIC BEVERAGE CONTROL BOARD**

In the Matter of :

Carib Food Corporation
t/a Silver Sands Restaurant

Application for a Retailer's Class
CR License – substantial change
from DR to CR License

7303 Georgia Avenue, Northwest
Washington, D.C.

Case no. 6015-00073P

Alpha O. McPherson, Jourdinia Smith Brown, Eugene Owens, Paulette Owens, Hattie Ervin, Tom Ervin, and Joseph H. Hairston, Chair, ANC 4A, Protestants

Dr. Wesley N. Gordon, President, on behalf of Applicant

**BEFORE: Roderic L. Woodson, Esquire, Chair
Vera Abbott, Member
Charles Burger, Member
Judy Moy, Member
Ellen Oppen-Weiner, Esquire, Member
Audrey E. Thompson, Member**

ORDER ON WITHDRAWN OPPOSITION

A request, filed by Dr. Wesley Gordon, president, on behalf of the Carib Food Corporation t/a Silver Sands Restaurant, for a substantial change from a retailer's license class DR to a CR, initially came before the Board for a roll call hearing on July 5, 2000. The Board's records indicate that Alpha O. McPherson, Jourdinia Smith Brown, Eugene and Paulette Owens, Hattie and Tom Ervin, and Joseph H. Hairston, chair, on behalf of Advisory Neighborhood Commission 4A ("ANC") filed timely opposition pursuant to Sections 1702 and 1703 of the ABC Regulations (DCMR Title 23, June 1997).

On October 11, 2000, a status hearing was conducted at which time Alpha O. McPherson, on behalf of the protestants, withdrew the opposition against the applicant's request for substantial change. (Tr. p. 10. L. 21). The official records of the Board reflect that the parties have now reached an agreement that has been reduced to writing and dated August 14, 2000, and

**Carib Food Corporation
t/a Silver Sands Restaurant
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has been properly executed and filed with the Board. Pursuant to the agreement, the Board's approval of the applicant's request to change of the license class from a DR to a CR is conditioned upon the licensee's continuing compliance with the terms of the agreement.

Accordingly, it is this 1st day of November 2000, **ORDERED** that:

1. The opposition of Alpha O. McPherson, Jourdinia Smith Brown, Eugene Owens, Paulette Owens, Hattie Ervin, Tom Ervin, and Joseph H. Hairston, Chair, ANC 4A, be, and the same hereby, is **WITHDRAWN**;
2. The request to change the retailer's license class from DR to CR for Carib Food Corporation t/a Silver Sands Restaurant, located at 7303 Georgia Avenue, N.W., be, and the same hereby, is **GRANTED**;
3. The above-referenced agreement between the parties, be, and the same hereby, is **INCORPORATED** as part of this **ORDER**, and:
4. Copies of this Order shall be sent to the Protestants and the Applicant.

District of Columbia
Alcoholic Beverage Control Board

Roderic L. Woodson, Esquire, Chair

Vera Abbott

Vera Abbott, Member

Charles Burger

Charles Burger, Member

Judy Moy

Judy Moy, Member

Ellen Oppenheimer

Ellen Oppenheimer, Esquire, Member

Audrey E. Thompson

Audrey E. Thompson, Member